

November 18, 2004

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Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal  
Reserve System  
20th Street and Constitution Avenue, NW  
Washington, DC 20551

Re: Docket No. R-1210

Dear Ms. Johnson:

This comment letter is submitted on behalf of Union Bank of California in response to the notice of proposed rulemaking ("Proposed Rule") and request for public comment by the Federal Reserve Board ("FRB"), published in the Federal Register on September 17, 2004. The Proposed Rule would revise Regulation E, which implements the Electronic Fund Transfer Act ("EFTA"), and the official staff commentary of Regulation E ("Commentary"), to address payroll cards and electronic check conversion services. In addition, the Proposed Rule includes revisions and clarifications relating to: stop payment and revocation of authorizations for preauthorized electronic fund transfers ("EFTs"); replacement of existing debit cards with multiple renewal or substitute cards; telephonic authorizations for preauthorized EFTs; requirements for automated teller machine ("ATM") notices; error resolution procedures; and notices of transfers varying in amount.

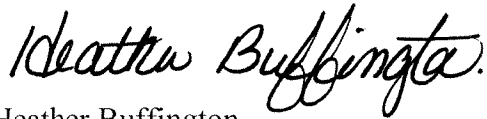
The proposed regulation provides that the term "account" includes a payroll card account "directly or indirectly established by an employer on behalf of a consumer . . ." We request that the Federal Reserve clarify that the term does not apply to prepaid cards that are purchased by the consumer from an issuer (e.g., a bank) or the issuer's agent, provided the issuer and its agent are not the employer or the employer's agent.

Many banks issue prepaid cards to consumers for purposes other than payroll disbursement. Some of those consumers may later request that their employer remit some or all of their payroll through the automated clearing house to their card [Note: Issuing institutions that treat the card as an "account" for Regulation E purposes already provide Reg. E disclosures in connection with such transactions]. Unlike the case with employer-established cards, however, employers may not know that ACH transfers are being made to a "card," as opposed to an "account." Banks and their processors also will have a problem distinguishing between "payroll" transfers and other loads to pre-existing cards.

We believe that cards purchased by employees (or someone making a gift to the employee) should be treated differently than cards issued "directly or indirectly" by employers. The proposed regulation's use of "directly or indirectly" is somewhat ambiguous in this respect and has caused some confusion among reviewers and compliance personnel. As such, we request that the commentary to the final rule explain that it is not intended to cover cards that are purchased by employees from persons that are not the employer or its agent, even though those cards may later receive transfers of payroll at the request of the employee/cardholder.

Union Bank of California appreciates the opportunity to comment on this important topic.

Sincerely,

A handwritten signature in black ink that reads "Heather Buffington". The signature is written in a cursive, flowing style.

Heather Buffington

cc. Robert May  
Robert Weber